

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, : 12-CR-691 (JFK)
: U.S. Courthouse
: Brooklyn, New York
-against- :

TRANSCRIPT OF
PLEADING

DEJVID MIRKOVIC, : March 13, 2013
a/k/a "Dave Mirkovic," : 3:00 p.m.
a/k/a "David Mirkovic"
and a/k/a "Dejuid
Mirkovic", :

Defendant. :

- - - - - X

BEFORE:

HONORABLE JOHN F. KEENAN, U.S.D.J.

APPEARANCES:

For the Government: LORETTA E. LYNCH, ESQ.
United States Attorney
271 Cadman Plaza East
Brooklyn, New York 11201
BY: MARSHALL L. MILLER, ESQ.
UNA A. DEAN, ESQ.
BRIAN MORRIS, ESQ.
Assistant U.S. Attorneys

For the Defendant: SUSAN G. KELLMAN, ESQ.

Court Reporter: Holly Driscoll, CSR
Official Court Reporter
225 Cadman Plaza East
Brooklyn, New York 11201
(718) 613-2274

Proceedings recorded by mechanical stenography, transcript
produced by Computer-Assisted Transcript.

1 THE COURT: Good afternoon, everyone. All right.
2 You may be seated. Thank you.

3 Would you please rise, Mr. Mirkovic, and good
4 afternoon to you, Ms. Kellman. Good afternoon, Mr. Miller.

5 MS. KELLMAN: Good afternoon, Your Honor.

6 THE COURT: Ms. Dean.

7 MS. DEAN: Good afternoon, Your Honor.

8 THE COURT: And Mr. Morris. We have an added
9 starter here.

10 MR. MILLER: Yes, Your Honor. Mr. Morris is in our
11 forfeiture unit, Your Honor.

12 THE COURT: In the forfeiture unit.

13 MR. MILLER: Yes, Your Honor.

14 THE COURT: All right, fine.

15 MS. KELLMAN: We also have an added starter, Your
16 Honor. With the Court's permission, also at counsel table
17 with me is Ms. Mary Bejarano.

18 THE COURT: Ms. Bejarano, how do you do. Nice to
19 see you.

20 MS. BEJARANO: Good afternoon, Your Honor.

21 THE COURT: Good afternoon to you, Mr. Mirkovic.
22 All right. Would you swear the defendant please,
23 Mr. Ryan.

24 (Defendant sworn by the clerk.)

25 THE COURT: You have to talk a little louder than

1 that, okay.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: What is your full name, sir?

4 THE DEFENDANT: It is Dejvid Mirkovic.

5 THE COURT: You can sit down, that way you can speak
6 into the microphone.

7 Go ahead.

8 THE DEFENDANT: It is Dejvid Mirkovic. The first
9 name is spelled a little funny, D-E-J-V-I-D.

10 THE COURT: How old are you, Mr. Mirkovic?

11 THE DEFENDANT: I'm 38 years old, sir.

12 THE COURT: All right. Now, I placed you under
13 oath because I want you to tell me the truth and I have, as
14 it were, an insurance policy now that you will tell me the
15 truth because if you made a misstatement an intentional
16 misstatement, in other words, if you lied under oath, you
17 could be prosecuted additionally for perjury and/or making a
18 false statement, so it is very important that you tell me the
19 truth. If there's anything I ask you that you don't
20 understand, you just turn to Ms. Kellman, tell me you need
21 some time and she'll explain it to you. I don't want you
22 trying to answer anything you don't understand.

23 So far are we on the same page?

24 THE DEFENDANT: Yes sir.

25 THE COURT: All right. I take it that you read,

1 write, speak and understand English; is that right?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And do you waive the reading of the
4 indictment or do you require us to read it to you?

5 THE DEFENDANT: I waive the reading of the
6 indictment.

7 THE COURT: Okay. How far did you go in school,
8 sir?

9 THE DEFENDANT: I did finish high school as well as
10 I just did a few classes in college, sir.

11 THE COURT: Where did you go to college?

12 THE DEFENDANT: I did a little bit at University of
13 Miami, then I did courses through -- I did courses through the
14 Marine Corps.

15 THE COURT: Okay. And you're how old again?

16 THE DEFENDANT: I'm 38 years old.

17 THE COURT: 38, all right. And when you were
18 arrested where were you living?

19 THE DEFENDANT: I was living in West Palm Beach,
20 Florida.

21 THE COURT: In West Palm, okay. And are you married
22 or single, sir?

23 THE DEFENDANT: I'm married, sir.

24 THE COURT: Do you have any children?

25 THE DEFENDANT: I have one son.

1 THE COURT: How old is he?

2 THE DEFENDANT: He's four years old.

3 THE COURT: When you work, what do you do for a
4 living?

5 THE DEFENDANT: I had a business, I was selling,
6 telemarketing coins, gold and silver coins.

7 THE COURT: Was that down in Florida or up here?

8 THE DEFENDANT: That was down in Florida, sir.

9 THE COURT: Where, in Lake Worth, in West Palm,
10 where?

11 THE DEFENDANT: The office was located in Delray
12 Beach, Florida.

13 THE COURT: I see. All right.

14 And are you currently or have you ever been under
15 the care of a doctor or a psychiatrist for mental or emotional
16 problems?

17 THE DEFENDANT: I've seen a therapist but that's as
18 far as that goes.

19 THE COURT: How long ago was that?

20 THE DEFENDANT: Right before I got arrested.

21 THE COURT: Before you were arrested?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. And how long before you were
24 arrested about?

25 THE DEFENDANT: I was 38 years old, just turned

1 38 years old.

2 THE COURT: And when was it that you saw the --

3 THE DEFENDANT: I've been seeing my therapist for
4 the last two years.

5 THE COURT: Before you were arrested?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And what were you seeing a therapist
8 for?

9 THE DEFENDANT: Just to deal with my emotions.

10 THE COURT: Okay. There's no question as to the
11 defendant's competency, is there, Ms. Kellman?

12 MS. KELLMAN: No, Your Honor.

13 THE COURT: All right. Have you ever been
14 hospitalized or treated for alcoholism, narcotic addiction or
15 any other kind of drug abuse?

16 THE DEFENDANT: No, sir.

17 THE COURT: Other than probably being nervous this
18 afternoon because you know this is very serious, are you
19 feeling all right this afternoon?

20 THE DEFENDANT: I'm feeling all right, sir.

21 THE COURT: Okay. Are you under the influence of
22 anything such as drugs or alcohol that would affect or might
23 affect your ability to understand what you're doing?

24 THE DEFENDANT: I'm not under the effect of
25 anything, sir, no, sir.

1 THE COURT: You can move that microphone closer to
2 you if you want if that is easier, that way you don't have to
3 lean over every time. All right.

4 Did you receive a copy of the indictment and did you
5 go over the indictment with Ms. Kellman?

6 THE DEFENDANT: Yes, sir, I did, sir.

7 THE COURT: And did she explain to you the charges
8 in the indictment and do you feel you fully understand them?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Did you tell Ms. Kellman everything you
11 know about the case?

12 THE DEFENDANT: Yes, I have, sir.

13 THE COURT: Did you hold anything back from her?

14 THE DEFENDANT: No, sir.

15 THE COURT: Did you really level with her?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, you have the right to continue to
18 plead not guilty, to persist in that plea and to go to trial,
19 do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And if you were to continue to plead not
22 guilty, you have the right to a speedy and a public trial in
23 front of a jury of 12 people, do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You have the right to be represented by

1 a lawyer at trial and at every other stage of the proceedings.
2 Since apparently you can't afford a lawyer, if for some reason
3 Ms. Kellman could not continue to represent you, I would
4 appoint another lawyer to represent you free of charge, do you
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: If I accept your plea of guilty here,
8 there will be no further trial of any kind, do you understand
9 that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And if you were to continue to plead not
12 guilty and if you went to trial, at a trial you would be
13 presumed to be innocent unless and until the government proved
14 that you were guilty beyond a reasonable doubt to the
15 satisfaction of all 12 jurors, do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: At a trial you would have the right to
18 confront and to cross-examine any and all witnesses that the
19 government called against you, do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: At a trial you would have the right to
22 remain silent and no inference could be drawn against you
23 because of your silence. On the other hand, if you wanted to,
24 you could take the witness stand and testify in your own
25 defense, do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, if you wanted it and if Ms. Kellman
3 requested it on your behalf and if the government in the
4 persons of Mr. Miller and Ms. Dean agreed and if I agreed and
5 if this is what you wanted and everybody agreed, you could be
6 tried by the Court without a jury. That means you'd have a
7 non-jury trial or a bench trial. If you had that, you would
8 still have all these constitutional rights that I set forth
9 for you just now and the government would still have the
10 burden of proving that you were guilty beyond a reasonable
11 doubt, do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: At a trial you would have the right to
14 subpoena witnesses and evidence in your own defense, do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, if I accept your offer to plead
18 guilty here this afternoon, you're giving up all these rights
19 with respect to the charges against you in the indictment.
20 There will be no further trial of any kind and I could
21 sentence you just as if the jury had brought in a verdict of
22 guilty against you, do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, you entered what is called a plea
25 agreement, I'm holding the original of it up in my hand, and

1 it was signed by Ms. Dean and Mr. Miller earlier today,
2 March 13th, and you signed it and Ms. Kellman signed it. Did
3 Ms. Kellman explain the plea agreement to you before you
4 signed it?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any questions at all
7 concerning the plea agreement?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you feel you honestly understand it?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Now, I'm going to go over some of the
12 highlights of the plea agreement. I'm going to return the
13 original to the government for safekeeping but I'm going to go
14 over some of the highlights of it.

15 First of all, as I understand it, you're going to
16 plead guilty to the one count of the indictment, right?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Or Count One.

19 Now, statutorily and by statutorily I mean what the
20 Congress fixed as the maximum punishment under Count One is up
21 to your natural life, do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And when you get out of prison, you face
24 a period of supervised release of up to five years and in the
25 event that you violated any of the terms of supervised

1 release, I could have you brought back before me and sentence
2 you to the whole period of supervised release as though it
3 hadn't even started yet, do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now, do you have the plea agreement in
6 front of you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. I'm going over now to page two in
9 a second. Now, the first thing also about the plea agreement
10 that is important is that you understand that the parties to
11 the plea agreement are the government on the one side and you
12 on the other, that I'm not a party to the agreement, do you
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: In other words, it's not binding on me,
16 it's binding on you on one side and the government on the
17 other, do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. Now, the plea agreement points
20 out that the maximum fine in this case is up to a quarter of a
21 million dollars, do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you also understand that I have to
24 order, according to the plea agreement, restitution. The
25 amount of the restitution is to be determined by me. That's

1 not statutory but I do have to do it, do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you also understand that you're
4 agreeing to an order of forfeiture and the government has
5 supplied me an order of forfeiture here and the order of
6 forfeiture is in accordance with paragraphs 5 through 11 of
7 the plea agreement and that's the provisions on pages 4, 5, 6,
8 7, and 8 as well as the top of -- well, the top of 8, and that
9 you understand that the forfeiture is not the same thing as
10 restitution, do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. So, in other words, you face both
13 the fine and the forfeiture, do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Also, no matter what I do, I have
16 to fix what is called a special assessment of \$100, do you
17 understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, in the United States, as you know
20 from the plea agreement, we have what are called the
21 sentencing guidelines. Do you understand that the guidelines
22 are not mandatory and they're not binding on me, they're
23 merely advisory, but I have to consider the plea agreement and
24 the guidelines in sentencing you, do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you also understand that I have to
2 consider the factors, and now I'm in paragraph two at page two
3 right about the middle of the page of the agreement, that I
4 have to consider the factors that are set forth in Title 18 of
5 the United States Code, Section 3553(a) to arrive at an
6 appropriate sentence in this case, do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now, according to the
9 agreement, the total offense level in your case is 43 but if
10 you allocute, and by allocute I mean admit the charges here
11 this afternoon, you're going to go down to an adjusted offense
12 level of 40, do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We're now in the middle of page three of
15 the agreement. And you have a Criminal History Category of
16 Roman Numeral I, do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: So, therefore, the range of sentence
19 under the guidelines, if I follow the guidelines, is between
20 292 to 360 months, do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you understand, as I said, the
23 guidelines are not binding on me and, as I understand it, if I
24 sentence you to a term -- this is the top of page four now, if
25 I sentence you to a term of imprisonment of 405 months or

1 below, in other words, less than 405 months, you're agreeing
2 not to file an appeal or in any other way challenge the
3 conviction; is that correct?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you're also agreeing to forfeit the
6 property as I set forth and I'll go over the various things
7 that you've agreed to forfeit. You've agreed to forfeit
8 approximately \$100,268.03 that was seized back on October 9,
9 2012 from the Wells Fargo Bank, do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And now we're going over to the top of
12 page five of the agreement.

13 You've also agreed to forfeit approximately \$48,000
14 that was seized from the Regions Bank, and that was \$48,000;
15 and you also agreed to forfeit approximately \$43,000 in
16 currency that was seized from you in the following amounts and
17 increments: First, about \$1,500 on September 14, 2012;
18 \$13,500 that was seized on or about the 25th of September,
19 2012; \$10,000 that was seized about October 2nd and 18,000
20 that was seized approximately October 9th.

21 Also, you're agreeing to forfeit a 2012 Honda Accord
22 automobile, a Kel Tec Kahr 9mm semi-automatic handgun; a rifle
23 called a Finar, a Springfield Arms Socom rifle called 16, and
24 they were all seized approximately the 9th of October, is that
25 correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And also you're also agreeing to forfeit
3 \$9,000 that was seized from Karen Romano on October 9th, is
4 that right?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And you're consenting to the
7 entry of the preliminary order of forfeiture; is that right?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. I've signed the preliminary
10 order of forfeiture. Okay.

11 There's a paragraph here that I'm going to read to
12 you at the top of page seven, paragraph nine; you should be
13 aware of this, I'm sure Ms. Kellman pointed it out to you but
14 I just want to make sure you know it:

15 If you fail to forfeit any of the monies or
16 properties that are required, that would be a material
17 breach of this agreement and if that happened, the office --
18 by that office I mean the United States Attorney -- could
19 bring additional criminal charges against you.

20 Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And the government has agreed, we're on
23 page eight now, not to make any motion for an upward departure
24 under the sentencing guidelines, do you understand? That
25 means the government is not going to ask me to be any stricter

1 than the guidelines, do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. You're also waiving any right to
4 appeal any fine that I impose if I impose a fine of a quarter
5 of a million dollars or less, do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Is there anything else that the
8 government wants to inquire of the defendant concerning the
9 plea agreement? If there is, you just go ahead and do it,
10 Mr. Miller, you ask him.

11 MR. MILLER: Thank you, Your Honor. I just wanted
12 to ensure that there were no threats or promises other than
13 those set forth in the plea agreement.

14 THE COURT: All right, yes. Did anybody threaten
15 you or force you to sign the plea agreement?

16 THE DEFENDANT: No, sir.

17 THE COURT: Did anybody promise you anything other
18 than what is contained in the plea agreement?

19 THE DEFENDANT: No, sir.

20 MR. MILLER: One more thing, Your Honor. What this
21 agreement sets forth is the government's best estimate at this
22 point as to what the guidelines might be based on the
23 information known to the government now but reserves the right
24 for the government, if new information comes forward or if the
25 estimate is wrong, to revise that estimate.

1 THE COURT: All right. What he's saying is as of
2 today, March 13th at 3:21 p.m., this is the best information
3 the government has as to what the guidelines are. He's saying
4 if they found out that the guidelines were worse from your
5 point of view or even better, that they have the right to
6 bring that to my attention, that's what he's saying, do you
7 understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. Anything else?

10 MR. MILLER: No, Your Honor.

11 Thank you.

12 THE COURT: Thank you.

13 Are you satisfied with the legal representation that
14 has been supplied to you by Ms. Kellman?

15 THE DEFENDANT: Very.

16 THE COURT: Okay. Now, it's possible, I don't know
17 that this happened but it happens in many cases, it's
18 possible, in fact I'd say it is probably likely that the
19 government has met or discussed you and your case with
20 Ms. Kellman without you being there, they may have spoken on
21 the telephone, they may have had meetings face-to-face, they
22 may have exchanged e-mails or faxes about you and your case,
23 do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. The plea agreement is acceptable

1 to me.

2 Now, have you been induced or offered to plead
3 guilty by reason of any promise or statement by anybody to the
4 effect that you would get leniency or special treatment or
5 consideration by pleading guilty instead of going to trial?

6 THE DEFENDANT: No.

7 THE COURT: Are you offering to plead guilty of your
8 own free will?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have you been induced or offered to
11 plead guilty by any fear or pressure or threat or force or
12 anything like that?

13 THE DEFENDANT: No, sir.

14 THE COURT: Is there anything you want to ask me at
15 this time about the charges in the case or the consequences of
16 pleading guilty?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you offering to plead guilty because
19 in truth and in fact you are guilty, sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Does the government represent that it
22 has sufficient evidence to establish a prima facie case,
23 Mr. Miller?

24 MR. MILLER: Yes, Your Honor.

25 THE COURT: All right. And Ms. Kellman, do you know

1 of any valid legal defense that would likely prevail if you
2 went to trial or do you know of any reason why Mr. Mirkovic
3 should not plead guilty?

4 MS. KELLMAN: No, Your Honor.

5 THE COURT: Now, I was supplied with a written
6 allocution, by allocution that means a statement as to what it
7 is that you did that was wrong. I read it, I have it in front
8 of me. I'm going to have a few other questions of you besides
9 what is in the written allocution, but you tell me what it is
10 that you did wrong.

11 THE DEFENDANT: Okay, sir.

12 THE COURT: Nice and loud now.

13 THE DEFENDANT: I agreed with another individual who
14 was not a government agent to kill a federal judge and a
15 federal prosecutor in the Eastern District of New York on
16 account of the performance of their official duties.

17 THE COURT: Okay. Hold it a second now. Did that
18 agreement or part of it at least take place between the period
19 February 1st, 2012 and October 9th, 2012?

20 THE DEFENDANT: Mostly in September and October,
21 sir.

22 THE COURT: Of 2012?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Most of it in September and October?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Thank you.

2 All right. Go ahead.

3 THE DEFENDANT: And to accomplish that I traveled
4 between Florida and Long Island on several occasions between
5 September and October of 2012.

6 THE COURT: And when you traveled back and forth on
7 some occasions, did you pay money to a person who turned out
8 to be an undercover police officer on several of those
9 occasions?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right.

12 Is the plea adequate for the government's purposes?

13 MR. MILLER: Yes, Your Honor.

14 THE COURT: All right. And this is sort of obvious
15 but I nevertheless am going to ask it; you knew that this was
16 illegal and that you weren't allowed to engage in an agreement
17 to kill a federal judge and a prosecutor, is that right?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Is the plea adequate for
20 your purposes, Ms. Kellman?

21 MS. KELLMAN: Yes, Your Honor.

22 THE COURT: All right. I agree with counsel. I
23 accept the plea. I direct that the plea be entered upon the
24 minutes of the Court.

25 Now, I'm going to ask both Ms. Kellman and

1 Mr. Marshal Miller if I'm correct, over in the Southern
2 District Probation needs at least three months to prepare the
3 probation report, is it the same here in the Eastern District?

4 MR. MILLER: Yes, Your Honor.

5 MS. KELLMAN: Yes.

6 THE COURT: All right, fine. Then I set sentence
7 down for June 19th at 3:00 in the afternoon here in this
8 courtroom and the Probation Department is to prepare a
9 presentence report for me.

10 I also direct you, Mr. Miller, and you, Ms. Dean, to
11 supply the prosecution case summary for purposes of the
12 probation report to Probation no later than 14 days from this
13 Friday which is March 15th and, Ms. Kellman, I want you to
14 make yourself available with Mr. Mirkovic to be interviewed by
15 Probation no later than 14 days from this Friday, March 15th;
16 in other words, both of those directives are to take place and
17 to be carried out by the close of business March 29th. The
18 reason for those two directives is to ensure that the
19 Probation Department has adequate time to prepare the
20 presentence report thereby complying with the requirements of
21 Rule 32 of the Federal Rules of Criminal Procedure and also
22 giving Ms. Kellman adequate time to prepare whatever
23 presentence material she wants to submit to me.

24 Ms. Kellman, I would very much appreciate it, and
25 you and I have dealt with each other many times before so when

1 I say I would appreciate it, it's a direction, I'm ordering
2 you.

3 MS. KELLMAN: I understood that, Judge.

4 THE COURT: Okay. Get me your presentence material
5 by -- Mr. Ryan, what is the 19th, a Thursday?

6 THE CLERK: Yes, I believe it is a Thursday.

7 THE COURT: Okay, get me --

8 THE CLERK: I'm sorry, Wednesday, Judge.

9 THE COURT: Get me the material by the close of
10 business June 10th, would you.

11 MS. KELLMAN: Yes, Your Honor.

12 THE COURT: Okay. Thank you.

13 And the government, if you have anything you want to
14 respond to Ms. Kellman, get it to me by the close of business
15 June 14th. That gives me a lot of time to read everything
16 because I have a feeling I'm going to get a lot of papers, all
17 right.

18 MR. MILLER: Yes, Your Honor.

19 MS. KELLMAN: I think that's true.

20 THE COURT: Thank you very much. All right. These
21 proceedings are concluded. Thank you.

22 MS. KELLMAN: Thank you, Your Honor.

23 MR. MILLER: Thank you.

24 THE COURT: Now, on the record, as soon as --

25 Marshals, that's all with Mr. Mirkovic but I want to

1 leave a few things on the record. You're welcome to stay,
2 Ms. Kellman, or welcome to leave but I want to put a few
3 things on the record.

4 Thank you, Marshals.

5 (Defendant leaves the courtroom.)

6 THE COURT: Here's what I want to talk to you about.

7 MR. MILLER: Yes, Your Honor.

8 THE COURT: You can sit down. As I say, you're
9 welcome to hear this.

10 And are you ordering these minutes?

11 MR. MILLER: I will, Your Honor, yes.

12 THE COURT: Make sure a copy of these minutes is
13 sent immediately as soon as you get them to Mr. Kilada because
14 I want him to know exactly what's been said here.

15 MR. MILLER: Yes, Your Honor.

16 THE COURT: Now, I'm sure you got a letter from
17 Mr. Kilada, I'm addressing the government, in which he wants
18 an adjournment of the May 20th trial date. I'm not happy
19 adjourning the case. The reason I'm not happy adjourning the
20 case is, one, the defendant is in custody; two, it's a very
21 serious case and it should be tried as soon as it can be
22 tried; three, selfishly, I don't want to be trying the case in
23 the middle of the summer, frankly. This is not going to be an
24 easy case to get a jury in and it's going to be harder to get
25 a jury in the middle of the summer.

1 Also, I have what is now a twelve defendant, what
2 I'm told by the prosecutors over in the Southern District will
3 be a nine defendant or ten defendant case which is scheduled
4 to go to trial September 23rd. With that number of
5 defendants, that's going to take four or five weeks. I'd much
6 prefer not to have to try this, or when I say try it, I'd much
7 prefer not to have to put this over till November.

8 I have not communicated with Mr. Kilada, I've told
9 my clerks to call him and I think they have concerning the
10 application that's going to be made on Monday, as I understand
11 it, for a psychiatric examination but I want you to advise him
12 of what I just said.

13 MR. MILLER: Yes, Your Honor.

14 THE COURT: And to supply the minutes to him
15 because I don't want in any way to be talking to the
16 government ex parte.

17 MR. MILLER: Yes, Your Honor.

18 THE COURT: I just want him on notice of where we're
19 at. All right.

20 Now, I'm going to see you then Monday at 3:00, as I
21 understand it, that's March 18th. Also, we were scheduled to
22 have on March 18th argument on that portion of Mr. Kilada's
23 motions where the government contests or objects to the
24 applications part of the motion. As I understand it, the
25 government has consented to an evidentiary hearing. And in

1 view of the psychiatric issue that has been raised concerning
2 competency, not responsibility but competency, it seems to me
3 that it is better to adjourn both the oral argument and
4 certainly not to have a hearing while that's pending. So, I'm
5 not going to have the oral argument on Monday. I think my law
6 clerks told that to Mr. Kilada that we're not going to have
7 the oral argument on Monday. If they haven't, they will ex
8 parte.

9 All right. I'll see you Monday at 3:00.

10 MR. MILLER: Thank you, Your Honor. I just wanted
11 to let you know that Ms. Dean will be representing the
12 government on Monday, I have to be elsewhere that day but she
13 will be handling it, Judge. Thank you, Your Honor.

14 THE COURT: She seems very competent. It will be my
15 pleasure to see her. Thank you.

16 MR. MILLER: Thank you, Your Honor.

17 THE COURT: Ms. Kellman, nice to see you as always.

18 MS. KELLMAN: Thank you.

19 LAW CLERK: Judge, I left Mr. Kilada a message, I
20 haven't been able to reach him yet.

21 THE COURT: Okay.

22 (Time noted: 3:35 p.m.)

23 (End of proceedings.)
24
25